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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,543	11/24/2003	Hiroaki Fujii	086142-0600	1813

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EXAMINER	
SPISICH, GEORGE D	

ART UNIT	PAPER NUMBER
3616	

MAIL DATE	DELIVERY MODE
01/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/718,543	FUJII ET AL.	
	Examiner	Art Unit	
	George D. Spisich	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *October 31, 2007 (RCE)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 10-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 10-12* is/are rejected.

7)☒ Claim(s) *13 and 14* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2007 has been entered.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 8 of copending Application No. 10/873,129 (in amendment filed 12/17/07). Although the conflicting claims are not identical, the structural elements including a hitch member and a mounting bracket are claimed in 10/873,129 and are structurally arranged as claimed in the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimoto et al. (USPUB 2003/0178835) in view of Aoki (USPN 6,069,325).

Nishimoto et al. (see at least Figure 5) discloses a seat belt device comprising a seat belt (31) for restraining and protecting an occupant sitting on a vehicle seat, and an end portion of the seat belt including a lap anchor (44). The seat belt is connected to a vehicle body on a side of the vehicle seat via the lap anchor.

The hitch member (41) is a slide bar with the lap anchor movable along the slide bar to a standby position and a working position. The mounting of the hitch

member/slide bar of Nishimoto et al. is similar to Applicant's with respect to seat support frames. The first end of the slide bar is attached to a seat mount portion and the second end of the slide bar is fixed to the vehicle floor.

However, Nishimoto et al. does not disclose a seat weight sensor installed below the seat that measures a seat load. Examiner points out that Applicant's mounting bracket (13) is not directly connected to the seat weight sensor (8). These elements are merely indirectly connected and Examiner's rejection is similarly connected as these elements are all connected together.

Aoki discloses a seat belt arrangement having a seat weight sensor installed below the seat that measures a seat load applied to the seat. The seat weight sensor is installed on a mount of the seat (similar to the mount of Nishimoto et al.). This "mount" is then broadly considered to be a mounting bracket of the seat weight sensor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the seat belt arrangement of Nishimoto et al. so as to provide a seat weight sensor installed below the seat as taught by Aoki in the manner as taught such that the hitch member (slide bar) of Nishimoto et al. is connected to the member that serves as a mounting bracket of the seat weight sensor of Aoki. Providing a seat weight sensor would allow for the adaptive control of safety arrangements to provide increased performance and safer operation.

With respect to the terms/phrases "fixed" and "attached to the seat weight sensor", Examiner's position is that these elements are shown (similarly as that shown

in Applicant's Figure 9) in the combined references and are broadly considered to meet the limitations of these words/phrases.

Allowable Subject Matter

Claims 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1 and 11 have been considered but are moot in view of the new ground(s) of rejection.

With respect to Applicant's argument that the cited/applied references do not show the claimed limitations, Examiner disagrees. Nishimoto et al. in view of Aoki as applied in this Office Action, properly shows the limitations claimed. Examiner's position is that the "mounting bracket" that Applicant has claimed (element 13) is indirectly connected to the seat weight sensor (8), since it is clearly shown that the hitch member is connected to a detachably mounted bracket (shown as 13). The broad use of terms for these members allows for any seat belt arrangement that is connected to seat mount/support structure that also supports a seat weight sensor, allows for the applied references to properly meet the claim limitation of a hitch member connected to a mounting bracket of the seat weight sensor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George D. Spisich whose telephone number is (571) 272-6676. The examiner can normally be reached on Monday-Friday 9:00 to 6:30 except alt. Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.\

George D. Spisich
January 2, 2008

1/4/08

PAUL N. DICKSON
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